

REMARKS

Applicant thanks the Examiner for the indication of allowable subject matter in independent claims 62, 67-74, 76-77, and 79.

The Examiner rejects Claims 60-61, 63-66, 75, 78, and 80-83 under 35 U.S.C. Section 103(a) as being unpatentable over Ji, et al., (US 6,660,059)

Applicant disagrees.

At the outset, Ji, et al., is not considered to be prior art. The present application was filed November 13, 2003, and claims priority to a provisional application filed November 15, 2002. Ji, et al., was filed May 11, 2001, and published July 18, 2002. With the exception of one inventor, namely Andrew Fleming, the named inventors are the same. Therefore, the only basis for Ji, et al., to be prior art is under 35 U.S.C. §102(e)(2).

Ji, et al., discuss a thiosulfate heap leach at col. 15, line 54, to col. 16, line 10. Fig. 4 shows molecular oxygen as being introduced during heap leaching but does not say how it is introduced. It could be through normal passage of the ambient air through the heap. It could be introduced in the leach solution itself. It could be introduced in the manner claimed. Ji, et al., thus do not anticipate the independent claims.

Ji, et al., is further not prior art under 35 U.S.C. §103(c)(1), which states that subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 shall not preclude patentability where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. Apart from the fact that the same inventive group that is responsible for the heap leaching embodiment in Ji, et al., is also responsible for the heap leaching embodiment of the current application, both Ji, et al., and the present application are currently assigned to the same assignee, namely Placer Dome Technical Services Limited. At the time that the subject matter of the rejected claim 1 and newly added claim 38 were developed, the inventors of those claims were under an obligation to assign the invention thereof to Placer Dome Technical Services Limited.

Notwithstanding the foregoing, Applicant has amended independent claim 60 to include the limitations of allowable dependent claim 77.

The dependent claims provide further reasons for allowability.

Applicant has added new claims 84-108. Independent claim 84 is a combination of independent claim 60 and allowable dependent claim 62; independent claim 92 of independent claim 60 and allowable dependent claim 67; independent claim 100 of independent claim 60 and allowable dependent claim 76; and independent claim 101 of independent claim 60 and allowable dependent claim 79.

Based on the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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